

FINAL BILL REPORT

2SHB 1636

C 482 L 07

Synopsis as Enacted

Brief Description: Creating a regional transfer of development rights program.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Simpson, B. Sullivan, Dunshee, Upthegrove, McCoy, Dickerson, P. Sullivan, Morrell, Sells and Rolfes).

House Committee on Local Government

House Committee on Appropriations

Senate Committee on Natural Resources, Ocean & Recreation

Senate Committee on Ways & Means

Background:

Transfer of Development Rights.

A transfer of development rights (TDR) occurs when a qualifying land owner severs potential development rights from a particular property and transfers them to a recipient for use on a different property. Transferred development rights are generally sent from areas with lower population densities, "often referred to as sending areas," to areas with higher population densities. Monetary values associated with transferred rights effectively constitute compensation to land owners for development that may have otherwise occurred on the transferring property.

Programs for transferring development rights may be used to preserve natural and historic spaces, encourage infill, and for other purposes. Though different in purpose, application, and oversight, 11 jurisdictions in Washington have active TDR programs. Of these programs, seven jurisdictions have had development transactions using transferred rights.

Growth Management Act.

The Growth Management Act (GMA or Act) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous requirements for local governments obligated by mandate or choice to fully plan under the Act (planning jurisdictions) and a reduced number of directives for all other counties and cities. Twenty-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

The Department of Community, Trade, and Economic Development (DCTED) is charged with providing technical and financial assistance to jurisdictions implementing the GMA.

Puget Sound Regional Council.

The Puget Sound Regional Council (PSRC) is an association of cities, towns, counties, ports, and state agencies that serves as a forum for developing policies and making decisions about

regional growth and transportation issues in the four-county central Puget Sound region. Membership of the PSRC includes King, Kitsap, Pierce, and Snohomish counties, 71 cities and towns, four port districts, and transit agencies and tribes within the region. Two state agencies, the Department of Transportation and the Transportation Commission, are also members of the PSRC.

Summary:

TDR Program Establishment - General Requirements.

Subject to a specific appropriation, the DCTED must fund a process to develop a regional TDR program that comports with the GMA. The TDR program must encourage King, Kitsap, Pierce, and Snohomish counties, and the cities within, to participate in the development and implementation of regional frameworks and mechanisms that make TDR programs viable and successful. In filling its program development requirements, the DCTED must:

- encourage and embrace efforts in participating counties and cities to develop local TDR programs;
- work with the PSRC and its growth management policy board to develop a process that complies with specific TDR requirements; and
- establish and work with a nine-member advisory committee comprised of qualifying stakeholders to develop a regional TDR marketplace that includes, but is not limited to, supporting strategies for financing infrastructure and conservation.

The TDR program developed by the DCTED must allow the agency to utilize the recommendations of interested local governments, nongovernmental entities, and the PSRC to develop recommendations and strategies for a regional TDR marketplace that represents the consensus of governmental and nongovernmental parties engaged in the process. However, if agreement between these parties cannot be reached, the DCTED must make recommendations to the Legislature that seek to balance the needs and interests of the governmental and nongovernmental parties.

The TDR program developed by the DCTED must also make recommendations in accordance with specific requirements. Recommendations made by the DCTED may be made through contracts with persons possessing relevant expertise and, must, in part:

- identify opportunities for cities, counties, and the state to achieve significant benefits through TDR programs, and the value in modifying criteria by which capital budget funds are allocated;
- address challenges to the creation of an efficient and transparent TDR market;
- compare the uses of a regional TDR program to other land conservation strategies intended to protect rural and resource lands and implement the GMA; and
- identify appropriate sending areas for the purpose of protecting the future growth and economic development needs of sending areas.

Requirements for the PSRC.

The PSRC and its growth management policy board must develop policies to discourage, or prohibit if necessary, the transfer of development rights from a sending area if such a transfer would negatively impact the future economic viability of the sending area.

Reporting Requirements.

Two separate reporting requirements and deadlines are specified. The DCTED must notify the Governor and the appropriate committees of the Legislature by December 1, 2007, of any recommended actions for advancing the purposes of the act. Similarly, the DCTED must also notify the Governor and the appropriate committees of the Legislature of findings and legislative recommendations to implement a regional TDR program.

Votes on Final Passage:

House	95	2	
Senate	46	1	(Senate amended)
House	91	2	(House concurred)

Effective: July 22, 2007